

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

Repairing Standard Enforcement Order

Housing (Scotland) Act 2006: Section 24 (2)

Chamber Ref: FTS/HPC/RP/20/2394

12/2 Westhall Gardens, Edinburgh, EH10 4JQ which property consists of the first floor flat above ground or street more particularly described in Disposition by Peter McKiernan in favour of Janette Elaine Smith recorded in the Division of the general Register of Sasines applicable to the County of Midlothian on 7th June 1990 and being part of the building 12 Westhill Gardens, erected on ground at Viewforth, being the subjects described in the Disposition to Frank Moffat recorded in the said Division of the General Register of Sasines on 16th May 1884 (“the Property”)

The Parties:-

Ms Katie Biggs, formerly residing at the property, (“the Tenant”) and (“the Applicant”)

Jeanette Smith, current address unknown and care of Braemore Sales and Lettings, 30 Queensferry Road, Edinburgh, EH24 2HS (“the Landlord”) and (“the Respondent”)

Braemore Sales and Lettings, 30 Queensferry Road, Edinburgh, EH24 2HS, (“the Respondent’s Agents”)

Tribunal Members:

Mr Martin McAllister, solicitor, (Legal Member) and Ms Sara Hesp, chartered surveyor, (Ordinary Member)

NOTICE TO

Ms Jeanette Smith

Whereas in terms of their decision dated 5th October 2021, the First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal) determined that the Landlord

has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006, the tribunal now makes a repairing standard enforcement order (RSEO) in the following terms and requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the Property meets the repairing standard in terms of Section 13 of the said Act and that any damage caused by the carrying out of any work in terms of this Order is made good.

The tribunal determined to make a repairing standard enforcement order in the following terms:

1. **The Landlord is to make the living room windows wind and watertight.**
2. **The Landlord is to secure and repair the window in the master bedroom.**

The works are to be completed within four weeks of service of the repairing standard enforcement order on the Landlord or her letting agent.

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents typewritten on this and the preceding page are executed by Martin Joseph McAllister, legal member of the First-tier Tribunal for Scotland at Fenwick on 11th October 2021 before Graeme Bell, 27 Kirkton Road, Fenwick.



M McAllister